

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the February 1, 2006
Board of Review Meeting

Date: February 3, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO
CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, February 1, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, February 8, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the January 25, 2006, meeting were approved.

3. Old Business

(a) 73, 745

This matter was previously discussed and involved a claimant who left work voluntarily. The Board noted that additional testimony was needed regarding the claimant's separation. As a result, Mr. Sieber will conduct a hearing.

4. New Business

(a) 89,619

Mr. Morley presented this case that involved a claimant who received back pay during a period he received unemployment benefits. The Appeal Tribunal had held the claimant liable for refund. After discussion the Board voted to affirm the Appeal Tribunal.

(b) 92,059

Mr. Morley described this case that involved a claimant who did not return to work after he admitted taking the employer's property and agreeing to return it. The Appeal Tribunal had held the claimant disqualified under N.J.S.A. 43:21-5(a), and the claimant's subsequent employment did not toll the disqualification. The Board noted that the record supported the conclusion, except for the date the claimant began working for the first employer. As a result, the Board voted to affirm the Appeal Tribunal.

(c) 90,229

As presented by Mr. Gitter, this case involved a claimant who has had a history of absenteeism and tardiness and was discharged by the employer. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(b). The Board noted that the claimant's behavior continued after he received warnings and constituted misconduct connected with the work. As a result, the Board voted to reverse the Appeal Tribunal. As there were two determinations of eligibility, the claimant is not liable for refund. Mr. Gitter will prepare the decision.

(d) 75, 230

As described by Mr. Gitter, this case involved a claimant who worked for employer #1. That employer sold the business to employer #2. However, employer #1 was charged when the claimant filed a claim for unemployment benefits. The Appeal Tribunal had held employer #1 liable for the charges. The Board noted that employer #1 presented no evidence that the claimant worked for employer #2 and voted to affirm the Appeal Tribunal with an additional sentence that employer #1 did not present that evidence. Mr. Gitter will prepare the decision.

(e) 93,656

Ms. Keller presented this case that involved a claimant who was discharged when he falsified a letter in order to be relieved of a court appearance. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(b), as the reason for his discharge

| constituted gross misconduct connected with the work. After discussion, the Board voted to affirm the Appeal Tribunal.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

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